BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

LAURIE KLEINSORGE Claimant)
VS.))) Docket No. 193,803
MANPOWER TEMPORARY SERVICES Respondent) Docket No. 193,003
AND	
FIREMAN'S FUND INSURANCE COMPANY Insurance Carrier	

ORDER

Respondent appeals from a Preliminary Hearing Order rendered by Administrative Law Judge Alvin E. Witwer on July 18, 1995.

Issues

On appeal, the respondent asks the Appeals Board to review findings related to the following issues:

- (1) Whether claimant suffered accidental injury arising out of and in the course of her employment at Manpower Temporary Services; and
- (2) Whether appropriate notice was given to the employer as required by K.S.A. 44-520.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

- (1) The two issues raised by respondent are ones subject to review in appeals from the preliminary order. K.S.A. 44-534a.
- (2) The Appeals Board finds the preliminary order granting benefits should be affirmed. Claimant testified to an injury on July 30, 1994 in the course of her employment for Manpower while packing boxes. She has also testified that she notified respondent of the

injury within the ten (10) days required by K.S.A. 44-520. The record contains other evidence casting doubt on claimant's testimony. Records of the initial visit to her family physician did not show a history of a work-related accident. Respondent's witnesses deny the phone call claimant asserts she made to give notice. The Award in this case, rests on the assessment of the credibility of the claimant who has testified live before the Administrative Law Judge. Giving that assessment deference, the Appeals Board concludes and finds that the Order should be affirmed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of the Administrative Law Judge Alvin E. Witwer dated July 18, 1995 should be, and the same is hereby, affirmed.

IT IS SO ORDERED.
Dated this day of September, 1995.
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER
DUARD WEWBER

c: Timothy Short, Pittsburg, Kansas Matthew J. Stretz, Kansas City, Missouri Alvin E. Witwer, Administrative Law Judge Philip S. Harness, Director